

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte OLIVER P. PEOPLES,  
LARA L. MADISON, and  
GJALT W. HUISMAN

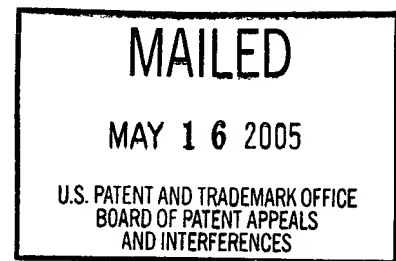
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Application No. 09/364,847

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**ORDER DENYING HEARING**

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This application was electronically received at the Board of Patent Appeals and Interferences on April 26, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER was mailed August 23, 2004 involving this application because the Reply Brief dated December 2, 2003, stated that "[a] Request for Oral Hearing accompanies this Reply along with the appropriate fee of \$145.00." [Emphasis added.] However, we were unable to locate the Request for Oral Hearing. Additionally, it did not appear that the Oral Hearing fee of \$145.00 had been applied.

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On March 25, 2005, counsel submitted via facsimile, a Request for Oral Hearing and an authorization to charge their PTO Deposit Account in the amount of \$1,000.00.

37 CFR § 1.194 states:

(b) If appellant desires an oral hearing, appellant must file, in a separate paper, a written request for such hearing accompanied by the fee set forth in § 1.17(d) within two months from the date of the examiner's answer. . .

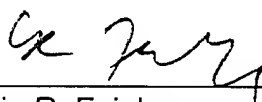
(c) If no request and fee for oral hearing have been timely filed by appellant, the appeal will be assigned for consideration and decision.

Since counsel has not presented evidence that a separate Request for Oral Hearing was filed December 2, 2003, and moreover that the filing on March 25, 2005, of an Oral Hearing request and fee is after the two month period, the request is considered as being untimely filed.

Accordingly, it is

**ORDERED** that the application be prepared and considered on brief, with no oral hearing being granted.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
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